

EHB 1217 - S COMM AMD

By Committee on Human Services & Corrections

ADOPTED 04/03/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 71.24.025 and 2006 c 333 s 104 are each amended to
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Acutely mentally ill" means a condition which is limited to a
8 short-term severe crisis episode of:

9 (a) A mental disorder as defined in RCW 71.05.020 or, in the case
10 of a child, as defined in RCW 71.34.020;

11 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
12 case of a child, a gravely disabled minor as defined in RCW 71.34.020;
13 or

14 (c) Presenting a likelihood of serious harm as defined in RCW
15 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

16 (2) "Available resources" means funds appropriated for the purpose
17 of providing community mental health programs, federal funds, except
18 those provided according to Title XIX of the Social Security Act, and
19 state funds appropriated under this chapter or chapter 71.05 RCW by the
20 legislature during any biennium for the purpose of providing
21 residential services, resource management services, community support
22 services, and other mental health services. This does not include
23 funds appropriated for the purpose of operating and administering the
24 state psychiatric hospitals.

25 (3) "Child" means a person under the age of eighteen years.

26 (4) "Chronically mentally ill adult" or "adult who is chronically
27 mentally ill" means an adult who has a mental disorder and meets at
28 least one of the following criteria:

29 (a) Has undergone two or more episodes of hospital care for a
30 mental disorder within the preceding two years; or

1 (b) Has experienced a continuous psychiatric hospitalization or
2 residential treatment exceeding six months' duration within the
3 preceding year; or

4 (c) Has been unable to engage in any substantial gainful activity
5 by reason of any mental disorder which has lasted for a continuous
6 period of not less than twelve months. "Substantial gainful activity"
7 shall be defined by the department by rule consistent with Public Law
8 92-603, as amended.

9 (5) "Clubhouse" means a community-based program that provides
10 rehabilitation services and is certified by the department of social
11 and health services.

12 (6) "Community mental health program" means all mental health
13 services, activities, or programs using available resources.

14 ((+6)) (7) "Community mental health service delivery system" means
15 public or private agencies that provide services specifically to
16 persons with mental disorders as defined under RCW 71.05.020 and
17 receive funding from public sources.

18 ((+7)) (8) "Community support services" means services authorized,
19 planned, and coordinated through resource management services
20 including, at a minimum, assessment, diagnosis, emergency crisis
21 intervention available twenty-four hours, seven days a week,
22 prescreening determinations for persons who are mentally ill
23 ((persons)) being considered for placement in nursing homes as required
24 by federal law, screening for patients being considered for admission
25 to residential services, diagnosis and treatment for children who are
26 acutely mentally ill ((and)) or severely emotionally disturbed
27 ((children)) discovered under screening through the federal Title XIX
28 early and periodic screening, diagnosis, and treatment program,
29 investigation, legal, and other nonresidential services under chapter
30 71.05 RCW, case management services, psychiatric treatment including
31 medication supervision, counseling, psychotherapy, assuring transfer of
32 relevant patient information between service providers, recovery
33 services, and other services determined by regional support networks.

34 ((+8)) (9) "Consensus-based" means a program or practice that has
35 general support among treatment providers and experts, based on
36 experience or professional literature, and may have anecdotal or case
37 study support, or that is agreed but not possible to perform studies
38 with random assignment and controlled groups.

1 ~~((9))~~ (10) "County authority" means the board of county
2 commissioners, county council, or county executive having authority to
3 establish a community mental health program, or two or more of the
4 county authorities specified in this subsection which have entered into
5 an agreement to provide a community mental health program.

6 ~~((10))~~ (11) "Department" means the department of social and
7 health services.

8 ~~((11))~~ (12) "Designated mental health professional" means a
9 mental health professional designated by the county or other authority
10 authorized in rule to perform the duties specified in this chapter.

11 ~~((12))~~ (13) "Emerging best practice" or "promising practice"
12 means a practice that presents, based on preliminary information,
13 potential for becoming a research-based or consensus-based practice.

14 ~~((13))~~ (14) "Evidence-based" means a program or practice that has
15 had multiple site random controlled trials across heterogeneous
16 populations demonstrating that the program or practice is effective for
17 the population.

18 ~~((14))~~ (15) "Licensed service provider" means an entity licensed
19 according to this chapter or chapter 71.05 RCW or an entity deemed to
20 meet state minimum standards as a result of accreditation by a
21 recognized behavioral health accrediting body recognized and having a
22 current agreement with the department, that meets state minimum
23 standards or persons licensed under chapter 18.57, 18.71, 18.83, or
24 18.79 RCW, as it applies to registered nurses and advanced registered
25 nurse practitioners.

26 ~~((15))~~ (16) "Long-term inpatient care" means inpatient services
27 for persons committed for, or voluntarily receiving intensive treatment
28 for, periods of ninety days or greater under chapter 71.05 RCW. "Long-
29 term inpatient care" as used in this chapter does not include: (a)
30 Services for individuals committed under chapter 71.05 RCW who are
31 receiving services pursuant to a conditional release or a court-ordered
32 less restrictive alternative to detention; or (b) services for
33 individuals voluntarily receiving less restrictive alternative
34 treatment on the grounds of the state hospital.

35 ~~((16))~~ (17) "Mental health services" means all services provided
36 by regional support networks and other services provided by the state
37 for ~~(the)~~ persons who are mentally ill.

1 (~~(17)~~) (18) "Mentally ill persons," "persons who are mentally
2 ill," and "the mentally ill" mean persons and conditions defined in
3 subsections (1), (4), (~~(26)~~) (27), and (~~(27)~~) (28) of this section.

4 (~~(18)~~) (19) "Recovery" means the process in which people are able
5 to live, work, learn, and participate fully in their communities.

6 (~~(19)~~) (20) "Regional support network" means a county authority
7 or group of county authorities or other nonprofit entity recognized by
8 the secretary in contract in a defined region.

9 (~~(20)~~) (21) "Registration records" include all the records of the
10 department, regional support networks, treatment facilities, and other
11 persons providing services to the department, county departments, or
12 facilities which identify persons who are receiving or who at any time
13 have received services for mental illness.

14 (~~(21)~~) (22) "Research-based" means a program or practice that has
15 some research demonstrating effectiveness, but that does not yet meet
16 the standard of evidence-based practices.

17 (~~(22)~~) (23) "Residential services" means a complete range of
18 residences and supports authorized by resource management services and
19 which may involve a facility, a distinct part thereof, or services
20 which support community living, for persons who are acutely mentally
21 ill (~~(persons)~~), adults who are chronically mentally ill (~~(adults)~~),
22 children who are severely emotionally disturbed (~~(children)~~), or adults
23 who are seriously disturbed (~~(adults)~~) and determined by the regional
24 support network to be at risk of becoming acutely or chronically
25 mentally ill. The services shall include at least evaluation and
26 treatment services as defined in chapter 71.05 RCW, acute crisis
27 respite care, long-term adaptive and rehabilitative care, and
28 supervised and supported living services, and shall also include any
29 residential services developed to service persons who are mentally ill
30 (~~(persons)~~) in nursing homes, boarding homes, and adult family homes,
31 and may include outpatient services provided as an element in a package
32 of services in a supported housing model. Residential services for
33 children in out-of-home placements related to their mental disorder
34 shall not include the costs of food and shelter, except for children's
35 long-term residential facilities existing prior to January 1, 1991.

36 (~~(23)~~) (24) "Resilience" means the personal and community
37 qualities that enable individuals to rebound from adversity, trauma,
38 tragedy, threats, or other stresses, and to live productive lives.

1 (~~(24)~~) (25) "Resource management services" mean the planning,
2 coordination, and authorization of residential services and community
3 support services administered pursuant to an individual service plan
4 for: (a) Adults and children who are acutely mentally ill (~~(adults and~~
5 ~~children)~~); (b) adults who are chronically mentally ill (~~(adults)~~); (c)
6 children who are severely emotionally disturbed (~~(children)~~); or (d)
7 adults who are seriously disturbed (~~(adults)~~) and determined solely by
8 a regional support network to be at risk of becoming acutely or
9 chronically mentally ill. Such planning, coordination, and
10 authorization shall include mental health screening for children
11 eligible under the federal Title XIX early and periodic screening,
12 diagnosis, and treatment program. Resource management services include
13 seven day a week, twenty-four hour a day availability of information
14 regarding (~~(mentally ill adults' and children's)~~) enrollment of adults
15 and children who are mentally ill in services and their individual
16 service plan to designated mental health professionals, evaluation and
17 treatment facilities, and others as determined by the regional support
18 network.

19 (~~(25)~~) (26) "Secretary" means the secretary of social and health
20 services.

21 (~~(26)~~) (27) "Seriously disturbed person" means a person who:

22 (a) Is gravely disabled or presents a likelihood of serious harm to
23 himself or herself or others, or to the property of others, as a result
24 of a mental disorder as defined in chapter 71.05 RCW;

25 (b) Has been on conditional release status, or under a less
26 restrictive alternative order, at some time during the preceding two
27 years from an evaluation and treatment facility or a state mental
28 health hospital;

29 (c) Has a mental disorder which causes major impairment in several
30 areas of daily living;

31 (d) Exhibits suicidal preoccupation or attempts; or

32 (e) Is a child diagnosed by a mental health professional, as
33 defined in chapter 71.34 RCW, as experiencing a mental disorder which
34 is clearly interfering with the child's functioning in family or school
35 or with peers or is clearly interfering with the child's personality
36 development and learning.

37 (~~(27)~~) (28) "Severely emotionally disturbed child" or "child who
38 is severely emotionally disturbed" means a child who has been

1 determined by the regional support network to be experiencing a mental
2 disorder as defined in chapter 71.34 RCW, including those mental
3 disorders that result in a behavioral or conduct disorder, that is
4 clearly interfering with the child's functioning in family or school or
5 with peers and who meets at least one of the following criteria:

6 (a) Has undergone inpatient treatment or placement outside of the
7 home related to a mental disorder within the last two years;

8 (b) Has undergone involuntary treatment under chapter 71.34 RCW
9 within the last two years;

10 (c) Is currently served by at least one of the following child-
11 serving systems: Juvenile justice, child-protection/welfare, special
12 education, or developmental disabilities;

13 (d) Is at risk of escalating maladjustment due to:

14 (i) Chronic family dysfunction involving a caretaker who is
15 mentally ill or inadequate (~~caretaker~~);

16 (ii) Changes in custodial adult;

17 (iii) Going to, residing in, or returning from any placement
18 outside of the home, for example, psychiatric hospital, short-term
19 inpatient, residential treatment, group or foster home, or a
20 correctional facility;

21 (iv) Subject to repeated physical abuse or neglect;

22 (v) Drug or alcohol abuse; or

23 (vi) Homelessness.

24 (~~(+28+)~~) (29) "State minimum standards" means minimum requirements
25 established by rules adopted by the secretary and necessary to
26 implement this chapter for: (a) Delivery of mental health services;
27 (b) licensed service providers for the provision of mental health
28 services; (c) residential services; and (d) community support services
29 and resource management services.

30 (~~(+29+)~~) (30) "Treatment records" include registration and all
31 other records concerning persons who are receiving or who at any time
32 have received services for mental illness, which are maintained by the
33 department, by regional support networks and their staffs, and by
34 treatment facilities. Treatment records do not include notes or
35 records maintained for personal use by a person providing treatment
36 services for the department, regional support networks, or a treatment
37 facility if the notes or records are not available to others.

1 (~~(30)~~) (31) "Tribal authority," for the purposes of this section
2 and RCW 71.24.300 only, means: The federally recognized Indian tribes
3 and the major Indian organizations recognized by the secretary insofar
4 as these organizations do not have a financial relationship with any
5 regional support network that would present a conflict of interest.

6 **Sec. 2.** RCW 71.24.035 and 2006 c 333 s 201 are each amended to
7 read as follows:

8 (1) The department is designated as the state mental health
9 authority.

10 (2) The secretary shall provide for public, client, and licensed
11 service provider participation in developing the state mental health
12 program, developing contracts with regional support networks, and any
13 waiver request to the federal government under medicaid.

14 (3) The secretary shall provide for participation in developing the
15 state mental health program for children and other underserved
16 populations, by including representatives on any committee established
17 to provide oversight to the state mental health program.

18 (4) The secretary shall be designated as the regional support
19 network if the regional support network fails to meet state minimum
20 standards or refuses to exercise responsibilities under RCW 71.24.045.

21 (5) The secretary shall:

22 (a) Develop a biennial state mental health program that
23 incorporates regional biennial needs assessments and regional mental
24 health service plans and state services for mentally ill adults and
25 children. The secretary shall also develop a six-year state mental
26 health plan;

27 (b) Assure that any regional or county community mental health
28 program provides access to treatment for the region's residents in the
29 following order of priority: (i) The acutely mentally ill; (ii)
30 chronically mentally ill adults and severely emotionally disturbed
31 children; and (iii) the seriously disturbed. Such programs shall
32 provide:

33 (A) Outpatient services;

34 (B) Emergency care services for twenty-four hours per day;

35 (C) Day treatment for mentally ill persons which includes training
36 in basic living and social skills, supported work, vocational
37 rehabilitation, and day activities. Such services may include

1 therapeutic treatment. In the case of a child, day treatment includes
2 age-appropriate basic living and social skills, educational and
3 prevocational services, day activities, and therapeutic treatment;

4 (D) Screening for patients being considered for admission to state
5 mental health facilities to determine the appropriateness of admission;

6 (E) Employment services, which may include supported employment,
7 transitional work, placement in competitive employment, and other work-
8 related services, that result in mentally ill persons becoming engaged
9 in meaningful and gainful full or part-time work. Other sources of
10 funding such as the division of vocational rehabilitation may be
11 utilized by the secretary to maximize federal funding and provide for
12 integration of services;

13 (F) Consultation and education services; and

14 (G) Community support services;

15 (c) Develop and adopt rules establishing state minimum standards
16 for the delivery of mental health services pursuant to RCW 71.24.037
17 including, but not limited to:

18 (i) Licensed service providers. These rules shall permit a county-
19 operated mental health program to be licensed as a service provider
20 subject to compliance with applicable statutes and rules. The
21 secretary shall provide for deeming of compliance with state minimum
22 standards for those entities accredited by recognized behavioral health
23 accrediting bodies recognized and having a current agreement with the
24 department;

25 (ii) Regional support networks; and

26 (iii) Inpatient services, evaluation and treatment services and
27 facilities under chapter 71.05 RCW, resource management services, and
28 community support services;

29 (d) Assure that the special needs of minorities, the elderly,
30 disabled, children, and low-income persons are met within the
31 priorities established in this section;

32 (e) Establish a standard contract or contracts, consistent with
33 state minimum standards and RCW 71.24.320, 71.24.330, and 71.24.3201,
34 which shall be used in contracting with regional support networks. The
35 standard contract shall include a maximum fund balance, which shall be
36 consistent with that required by federal regulations or waiver
37 stipulations;

1 (f) Establish, to the extent possible, a standardized auditing
2 procedure which minimizes paperwork requirements of regional support
3 networks and licensed service providers. The audit procedure shall
4 focus on the outcomes of service and not the processes for
5 accomplishing them;

6 (g) Develop and maintain an information system to be used by the
7 state and regional support networks that includes a tracking method
8 which allows the department and regional support networks to identify
9 mental health clients' participation in any mental health service or
10 public program on an immediate basis. The information system shall not
11 include individual patient's case history files. Confidentiality of
12 client information and records shall be maintained as provided in this
13 chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

14 (h) License service providers who meet state minimum standards;

15 (i) Certify regional support networks that meet state minimum
16 standards;

17 (j) Periodically monitor the compliance of certified regional
18 support networks and their network of licensed service providers for
19 compliance with the contract between the department, the regional
20 support network, and federal and state rules at reasonable times and in
21 a reasonable manner;

22 (k) Fix fees to be paid by evaluation and treatment centers to the
23 secretary for the required inspections;

24 (l) Monitor and audit regional support networks and licensed
25 service providers as needed to assure compliance with contractual
26 agreements authorized by this chapter;

27 (m) Adopt such rules as are necessary to implement the department's
28 responsibilities under this chapter; (~~and~~)

29 (n) Assure the availability of an appropriate amount, as determined
30 by the legislature in the operating budget by amounts appropriated for
31 this specific purpose, of community-based, geographically distributed
32 residential services; and

33 (o) Certify clubhouses that meet state minimum standards.

34 (6) The secretary shall use available resources only for regional
35 support networks, except to the extent authorized, and in accordance
36 with any priorities or conditions specified, in the biennial
37 appropriations act.

1 (7) Each certified regional support network and licensed service
2 provider shall file with the secretary, on request, such data,
3 statistics, schedules, and information as the secretary reasonably
4 requires. A certified regional support network or licensed service
5 provider which, without good cause, fails to furnish any data,
6 statistics, schedules, or information as requested, or files fraudulent
7 reports thereof, may have its certification or license revoked or
8 suspended.

9 (8) The secretary may suspend, revoke, limit, or restrict a
10 certification or license, or refuse to grant a certification or license
11 for failure to conform to: (a) The law; (b) applicable rules and
12 regulations; (c) applicable standards; or (d) state minimum standards.

13 (9) The superior court may restrain any regional support network or
14 service provider from operating without certification or a license or
15 any other violation of this section. The court may also review,
16 pursuant to procedures contained in chapter 34.05 RCW, any denial,
17 suspension, limitation, restriction, or revocation of certification or
18 license, and grant other relief required to enforce the provisions of
19 this chapter.

20 (10) Upon petition by the secretary, and after hearing held upon
21 reasonable notice to the facility, the superior court may issue a
22 warrant to an officer or employee of the secretary authorizing him or
23 her to enter at reasonable times, and examine the records, books, and
24 accounts of any regional support network or service provider refusing
25 to consent to inspection or examination by the authority.

26 (11) Notwithstanding the existence or pursuit of any other remedy,
27 the secretary may file an action for an injunction or other process
28 against any person or governmental unit to restrain or prevent the
29 establishment, conduct, or operation of a regional support network or
30 service provider without certification or a license under this chapter.

31 (12) The standards for certification of evaluation and treatment
32 facilities shall include standards relating to maintenance of good
33 physical and mental health and other services to be afforded persons
34 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall
35 otherwise assure the effectuation of the purposes of these chapters.

36 (13) The standards for certification of a clubhouse shall at a
37 minimum include:

1 (a) The facilities may be peer-operated and must be
2 recovery-focused;

3 (b) Members and employees must work together;

4 (c) Members must have the opportunity to participate in all the
5 work of the clubhouse, including administration, research, intake and
6 orientation, outreach, hiring, training and evaluation of staff, public
7 relations, advocacy, and evaluation of clubhouse effectiveness;

8 (d) Members and staff and ultimately the clubhouse director must be
9 responsible for the operation of the clubhouse, central to this
10 responsibility is the engagement of members and staff in all aspects of
11 clubhouse operations;

12 (e) Clubhouse programs must be comprised of structured activities
13 including but not limited to social skills training, vocational
14 rehabilitation, employment training and job placement, and community
15 resource development;

16 (f) Clubhouse programs must provide in-house educational programs
17 that significantly utilize the teaching and tutoring skills of members
18 and assist members by helping them to take advantage of adult education
19 opportunities in the community;

20 (g) Clubhouse programs must focus on strengths, talents, and
21 abilities of its members;

22 (h) The work-ordered day may not include medication clinics, day
23 treatment, or other therapy programs within the clubhouse.

24 (14) The department shall distribute appropriated state and federal
25 funds in accordance with any priorities, terms, or conditions specified
26 in the appropriations act.

27 ~~((+14))~~ (15) The secretary shall assume all duties assigned to the
28 nonparticipating regional support networks under chapters 71.05, 71.34,
29 and 71.24 RCW. Such responsibilities shall include those which would
30 have been assigned to the nonparticipating counties in regions where
31 there are not participating regional support networks.

32 The regional support networks, or the secretary's assumption of all
33 responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be
34 included in all state and federal plans affecting the state mental
35 health program including at least those required by this chapter, the
36 medicaid program, and P.L. 99-660. Nothing in these plans shall be
37 inconsistent with the intent and requirements of this chapter.

38 ~~((+15))~~ (16) The secretary shall:

1 (a) Disburse funds for the regional support networks within sixty
2 days of approval of the biennial contract. The department must either
3 approve or reject the biennial contract within sixty days of receipt.

4 (b) Enter into biennial contracts with regional support networks.
5 The contracts shall be consistent with available resources. No
6 contract shall be approved that does not include progress toward
7 meeting the goals of this chapter by taking responsibility for: (i)
8 Short-term commitments; (ii) residential care; and (iii) emergency
9 response systems.

10 (c) Notify regional support networks of their allocation of
11 available resources at least sixty days prior to the start of a new
12 biennial contract period.

13 (d) Deny all or part of the funding allocations to regional support
14 networks based solely upon formal findings of noncompliance with the
15 terms of the regional support network's contract with the department.
16 Regional support networks disputing the decision of the secretary to
17 withhold funding allocations are limited to the remedies provided in
18 the department's contracts with the regional support networks.

19 ~~((+16+))~~ (17) The department, in cooperation with the state
20 congressional delegation, shall actively seek waivers of federal
21 requirements and such modifications of federal regulations as are
22 necessary to allow federal medicaid reimbursement for services provided
23 by free-standing evaluation and treatment facilities certified under
24 chapter 71.05 RCW. The department shall periodically report its
25 efforts to the appropriate committees of the senate and the house of
26 representatives.

27 **Sec. 3.** RCW 49.19.010 and 2000 c 94 s 18 are each amended to read
28 as follows:

29 For purposes of this chapter:

30 (1) "Health care setting" means:

31 (a) Hospitals as defined in RCW 70.41.020;

32 (b) Home health, hospice, and home care agencies under chapter
33 70.127 RCW, subject to RCW 49.19.070;

34 (c) Evaluation and treatment facilities as defined in RCW
35 71.05.020~~((+12+))~~; and

36 (d) Community mental health programs as defined in RCW
37 71.24.025~~((+5+))~~.

- 1 (2) "Department" means the department of labor and industries.
2 (3) "Employee" means an employee as defined in RCW 49.17.020.
3 (4) "Violence" or "violent act" means any physical assault or
4 verbal threat of physical assault against an employee of a health care
5 setting."

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By Committee on Human Services & Corrections

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6 On page 1, line 1 of the title, after "services;" strike the
7 remainder of the title and insert "and amending RCW 71.24.025,
8 71.24.035, and 49.19.010."

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